**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.2597 OF 2006

Sangeeta Y.Gaikwad. ..Applicant.
Vs.
The State of Maharashtra. ..Respondent.

Mr.U.V. Arolkar for the Applicant.
Ms. S.V.Gajare, APP. for the State.

**CORAM : R.S. MOHITE,J.**
**DATED : 03/8/2006.**

**P.C.**

1. This is an application for grant of bail. The applicant is shown as an accused No.3 in C.R.No.59/2006 registered by Anti Narcotic Cell, Cuffe Parade, Mumbai under Section 8(c) read with 21 and 29 of the N.D.P.S. Act. The said crime has been registered on a complaint made by a Officer of the said Cell. It appears from the prosecution case that the accused No.1 in this case was found in possession of 260-Grams of heroine which is clearly above the commercial quantity. The accused No.2 was found in possession of 10- grams of heroine and accused No.3 was found in possession of 10-Grams of heroine. 10-Grams heroine is below the commercial quantity. It is sought to be argued that if the quantity of all the accused persons is clubbed together then each of them must be said to have committed an offence relating to commercial quantity. On this aspect, the matter has been considered by the Apex Court in the ruling reported in 2005 ALL MR (Cri.) 229 (S.C.)

where the Apex Court has held that where two accused persons were found together heroine more than the commercial quantity but individually less than the commercial quantity, Section 29 is not attracted. It may be true that in a given case there might be independent evidence of conspiracy. The APP. states that the accused have purchased the drug quantity from a common seller. Merely from the fact that drug has been purchased from the same person may not constitute independent evidence of criminal conspiracy. There is no material to indicate the conspiracy between the present applicant and the other accused. In the similar situation, I have granted bail to the applicant in Criminal Application No.2177/2006. In the circumstances, I am inclined to grant bail to the applicant.

. It is therefore, directed that pending her trial in pursuance of C.R.No.59/2006 registered by Anti Narcotic Cell, Cuffe Parade, Mumbai, the applicant may be released on bail in the sum of Rs.15,000/- with one surety in the like amount subject to the condition that she should report to the Investigating Officer at Anti Narcotic Cell. Cuffe Parade once in a fort night on every first and third Mondays between 11 a.m.to 5. p.m., till the disposal of the trial.

. Application is disposed off.

(R.S. MOHITE, J.)